O Wild Birds

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Legal Department

A **BRANCH**

Subject:— Opinions under the Wild Birds and Animals Protection Act

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Office of the R.L.A.

The R.L.A. is requested to advise on the authority under which the Police could be used for the destruction of wild cattle.

The Wild Birds and Animals Protection Act, 1912 provides for the protection and preservation of certain wild birds and animals. Section 5 of the Act enacts that nothing in this Act shall be deemed to apply to the capture or killing of a wild animal by any person in defence of himself or any other person or to the capture or killing of any wild bird or animal in bonafide defence of property. This provision impliedly affords protection to the person who captures or kills any wild bird or animals in bonafide defence of his property but does not give the Police authority to destroy such birds and animals en masse. The view taken by Secretary, H.D. is correct.

What is implied in section 5 of the Wild Birds and Animals Protection Act is more explicitly stated by Halsbury at p. 547 Vol. I in the following terms:

> "No action for trespass of animals ferae naturae on the land of another will lie; for the owner has only a qualified property in them while they are alive and they go with and belong to the soil; as soon as they have crossed from the land of one man to that of another they belong to the latter, or, more strictly, he has the right to kill them and reduce them into possession."

It is therefore clear that the person whose crop is threatened with destruction by wild animals has a right to kill them. But it appears that there is no law either requiring the Police to help such person in the destruction of wild animals' or empowering Government to order the Police so to do (See Ch. V of the Bombay District Police Act, 1890.).

Sd/-P.N.Moos
12-7-46

O.C. Remembrancer of Legal Affairs.

U.R. to H.D. No. 5011, dated the 15th July 1946.

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